

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CR No.14323 of 2018
Date of Decision: 20.12.2018**

Tusharanshu Sharma

Petitioner

Versus

Nidhi Sharma

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Surinder Kumar Sharma,
GPA for the petitioner (In Person).

AVNEESH JHINGAN, J (Oral):

The present Civil Revision Petition has been filed under Article 227 of the Constitution of India seeking quashing of order dated 03.12.2018 passed by the Additional District Judge, Panchkula, [hereinafter referred to as 'trial Court'] setting aside ex-parte proceedings order dated 27.09.2018.

The brief facts of the case are that the marriage between the petitioner and respondent was solemnized on 14.04.2016 at Delhi and the same was registered on 25.05.2016 at Panchkula. After some period, the relations between the petitioner and respondent became sour and in April 2017 the petitioner-husband filed a petition under Section 13 of Hindu Marriage Act, 1955 [for brevity

'the Act'] for dissolution of marriage. Notice was issued in the petition on 09.08.2017 and the respondent-wife was served on 09.08.2017. Time was sought for filing reply to the petition. Meantime, the respondent-wife filed an application under Section 24 of the Act on 24.11.2017. The petitioner filed reply to the said application in January 2018. During the pendency of the application, reply to the main case was also filed by the respondent-wife on 09.02.2018. On 30.03.2018, the application under Section 24 of the Act was withdrawn. On 09.05.2018, the petitioner filed replication, thereafter, issues were framed and the matter was fixed for evidence of the petitioner.

The petitioner concluded the evidence and the matter was fixed for cross-examination of the petitioner. On 27.09.2018, respondent-wife was proceeded against ex-parte and the said fact came to her knowledge on 31.10.2018. An application was moved for setting aside the ex-parte order. The said application was allowed vide order dated 03.12.2018, subject to payment of ₹1,500/- as costs. Aggrieved of the said order, the present civil revision petition has been filed.

It has been argued that the respondent-wife did not appear before the Court intentionally in order to delay the proceedings. The Court erred in setting aside the ex-parte order as it would further delay the litigation between the parties.

The contention raised on behalf of the petitioner lacks merit. From the perusal of the facts mentioned above, it is evident

that the petition was filed in April 2017, respondent was served in August 2017 and replication by the petitioner-husband was filed in May 2018. The respondent-wife while moving the application for setting aside the ex-parte order, stated that she was busy in some other cases. It has not been denied by GPA that number of cases are pending between the parties.

As the proceedings in present case are with regard to dissolution of marriage, it would not be appropriate that respondent-wife should be proceeded ex-parte. From perusal of paper book, it is not evident that there is any intentional delay in the litigation.

Reliance has been placed by GPA, on the decision of the Supreme Court in case of Ramrameshwari Devi and others Vs. Nirmala Devi and others, reported as 2011 (8) SCC 249 and on decision of this Court in case of Bharat Rajpur Vs. Amrik Singh Aulakh, reported as 2014(56) RCR (Civil) 195. The citation relied upon does not enhance the case of the petitioner. The case before the Supreme Court was one where the litigation was pending for almost four decades, the dispute involved in the said case was regarding property. The Supreme Court while dismissing the appeal, imposed costs of ₹2,00,000/-. In reference to imposition of costs of ₹2,00,000/-, following observations were made:-

“54. While imposing costs we have to take into consideration pragmatic realities and be realistic what the defendants or the respondents had to actually incur in contesting the litigation before different courts. We have to also broadly take into consideration the prevalent fee structure of the lawyers and

other miscellaneous expenses which have to be incurred towards drafting and filing of the counter affidavit, miscellaneous charges towards typing, photocopying, court fee etc.”

In the present case, the litigation is regarding dissolution of marriage. The petition itself has been filed in April, 2017 and the replication by the petitioner was filed in May, 2018. The said authority is not applicable in the facts of the present case.

As far as the decision of this Court in **Bharat Rajput's** case (supra) is concerned, this Court issued directions to the Subordinate Courts with regard to the cases falling under the Action Plan for 2013-14 of this Court. The Court was dealing with the case where the evidence of defendant was closed. In that background, the Court made observations that while dealing with the cases involved in Action Plan 2013-14, it is for the Courts to weigh the scales of justice for the speedy trial without causing undeserving injury to any party before it.

In the present case, there is no such occasion where it can be opined that the petition is being delayed or the learned trial Court is not dealing with the case in an appropriate manner.

No interference is called for in the impugned order, the civil revision petition is dismissed.

At this stage, a request has been made on behalf of the petitioner that the learned trial Court be directed to dispose of the case in a time bound manner.

No case is made out for issuance of such directions, especially when it is evident that there is no delay in dealing with the petition.

[AVNEESH JHINGAN]
JUDGE

December 20th, 2018
pankaj baweja

1. Whether speaking/ reasoned
- :
- Yes/ No
2. Whether reportable
- :
- Yes/ No